

UNITED STATES DISTRICT COURT
Northern District of California

E.C. PHILLIPS, III,

No. C 12-01533 MEJ

Plaintiff,

**ORDER FOR CLERK OF COURT TO
REASSIGN CASE**

v.

THE COUNTY OF SONOMA,

REPORT & RECOMMENDATION

Defendant.

On March 27, 2012, Plaintiff E.C. Phillips, III, filed the above-captioned case. Dkt. No. 1. On May 30, 2012, Plaintiff filed a request “that the Court approve the substitution of E.C. Phillips, III, pro se, as his own counsel of record in the place and stead of Goins & Associates PLC.” Dkt. No. 4. The Court granted Plaintiff’s request on May 31. Dkt. No. 5. Although Plaintiff subsequently registered as an e-file user, Plaintiff made no further appearances, with the exception of the parties’ June 25, 2012 Stipulation to Extend Filing Date for Responsive Pleading. Dkt. No. 10. Thus, as the matter was scheduled for a Case Management Conference on July 12, 2012, and Plaintiff had filed no case management statement, the Court ordered Plaintiff to show cause why this case should not be dismissed for failure to prosecute and failure to comply with court deadlines. Dkt. No. 15. The Court ordered Plaintiff to file a declaration by July 19, 2012, and warned Plaintiff that the Court may dismiss the case without a hearing if Plaintiff fails to file a responsive pleading. Plaintiff failed to respond.

In addition, on July 9, 2012, Defendant County of Sonoma filed a Motion to Dismiss, with a noticed hearing date of August 23, 2012. Dkt. No. 17. Plaintiff also failed to file an opposition pursuant to Civil Local Rule 7. Based on this procedural history, the Court finds it appropriate to dismiss this case pursuant to Federal Rule of Civil Procedure 41(b).

1 Under Rule 41(b), failure to comply with a court order can warrant dismissal. *See Ferdik v.*
2 *Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992). Further, failure to follow a district court's local rules
3 is a proper ground for dismissal. *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). In "determining
4 whether to dismiss a case for failure to comply with a court order, the district court must weigh five
5 factors including '(1) the public's interest in expeditious resolution of litigation; (2) the court's need
6 to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
7 disposition of cases on their merits; and (5) the availability of less drastic alternatives.'" *Ferdik*, 963
8 F.2d at 1260-61 (quoting *Thompson v. Housing Auth.*, 782 F.2d 829, 831 (9th Cir. 1986)). Here,
9 Plaintiff failed to file an opposition to Defendant's pending motion to dismiss, failed to comply with
10 Court orders and deadlines, and failed to respond to the order to show cause. Thus, the Court finds
11 that the *Ferdik* factors weigh in favor of dismissal.

12 Accordingly, because Plaintiff has yet to consent to the undersigned's jurisdiction, the Court
13 hereby ORDERS the Clerk of Court to reassign this case to a district court judge. The undersigned
14 RECOMMENDS that the newly-assigned judge dismiss this case for failure to prosecute and failure
15 to comply with the Court's deadlines and orders.

16 Pursuant to Federal Rule of Civil Procedure 72, any party may serve and file objections to
17 this Report and Recommendation within 14 days after being served.

18 **IT IS SO ORDERED AND RECOMMENDED.**

19
20 Dated: July 26, 2012

21 
22 _____
23 Maria-Elena James
24 Chief United States Magistrate Judge
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27
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

E.C. PHILLIPS, III,
Plaintiff,

Case Number: 12-01533 MEJ

CERTIFICATE OF SERVICE

v.

THE COUNTY OF SONOMA,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 26, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

E. C. Phillips
103 Morris Street
Suite O
Sebastopol, CA 95472

Dated: July 26, 2012

Richard W. Wieking, Clerk
By: Rose Maher, Deputy Clerk